

CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 18, 1995, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29³ must be filed by October 30, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 8, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: John J. Paylor, Two Commerce Square, 2001 Market St., 16-A, P.O. Box 41416, Philadelphia, PA 19101-1416.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

Conrail has filed an environmental report which addresses the abandonment's effects, if any, on the environmental and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by October 24, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling

Elaine Kaiser, Chief of SEA, at (202) 927-6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: October 13, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95-25939 Filed 10-18-95; 8:45 am]

BILLING CODE 7035-01-P

[Docket No. AB-290 (Sub-No. 177X)]

**Norfolk Southern Railway Company—
Abandonment Exemption—Between
Kent and Ringgold, VA**

Norfolk Southern Railway Company (NS) has filed a notice of exemption under 49 CFR part 1152 Subpart F—*Exempt Abandonments* to abandon its line of railroad between milepost F-3.3 at Kent and milepost F-5.0 at Ringgold, in Pittsylvania County, VA, a total distance of 1.7 miles.

NS has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line, and if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 18, 1995, unless stayed pending reconsideration. Petitions to stay that do not involve environmental

issues,¹ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29³ must be filed by October 30, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 8, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: James R. Paschall, Three Commercial Place, Norfolk, VA 23510.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

NS has filed an environmental report which addresses the abandonment's effects, if any, on the environmental and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by October 24, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927-6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: October 13, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95-25942 Filed 10-18-95; 8:45 am]

BILLING CODE 7035-01-P

¹ A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date of this exemption.

² See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

³ The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

¹ A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date of this exemption.

² See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

³ The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

[Docket No. AB-457X]

**RLTD Railway Corporation—
Abandonment Exemption—in Leelanau
County, MI**

RLTD Railway Corporation (RLTD) has filed a notice of exemption under 49 CFR part 1152 Subpart F—*Exempt Abandonments* to abandon its entire line of railroad between milepost 5.52 at Hatches Crossing, Elmwood Township, and milepost 29.56 at Northport, in Leelanau County, MI.

RLTD has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

Where, as here, the carrier is abandoning its entire line, the Commission does not normally impose labor protection under 49 U.S.C. 10505(g) unless there is evidence of a corporate affiliate that will: (1) Continue rail operations; or (2) realize significant benefits in addition to being relieved of the burden of deficit operations by its affiliated railroad. See *T and P Rwy.—Aband.—in Shawnee, Jefferson, and Atchison Counties, KS*, Docket No. 381, et al. (ICC served Apr. 27, 1993). Because these conditions do not appear to exist here, employee protective conditions will not be imposed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 18, 1995, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an OFA under 49 CFR

1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29³ must be filed by October 30, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 8, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: John D. Noonan, P.O. Box 2358, Traverse City, MI 49685-2358.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

Leelanau Trails Association (LTA) seeks issuance of a notice of interim trail use/rail banking (NITU) for a portion of the involved lines (namely between Hatches Crossing and Dumas Road in Suttons Bay Township, MI), under the National Trails System Act (Trails Act), 16 U.S.C. 1247(d). LTA has submitted a statement of willingness to assume financial responsibility for the interim trail use and rail banking in compliance with 49 CFR 1152.29 and acknowledged that the right-of-way as a trail is subject to future reactivation of rail service.

While expressions of interest in interim trail use need not be filed until 10 days after the date the notice of exemption is published in the Federal Register [49 CFR 1152.29(b)(2)], the provisions of the Trails Act are applicable, and all of the criteria for imposing trail use/rail banking have been met. Accordingly, based on RLTD's willingness to enter into negotiations with LTA, a NITU will be issued. The parties may negotiate an agreement during the 180-day period prescribed below. If a mutually acceptable final agreement is reached, further Commission approval is not necessary. If no agreement is reached within 180 days, RLTD may fully abandon the line. See 49 CFR 1152.29(d)(9)(1).

Issuance of this NITU does not preclude other parties from filing interim trail use/rail banking requests. Nor does it preclude RLTD from negotiating with other parties in addition to LTA during the NITU negotiating period. If additional trail use requests are filed, RLTD is directed to respond to them. Use of the right-of-way for trail purposes is subject to restoration for railroad purposes.

² See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

³ The Commission will accept a late-filed trail use request as long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

The parties should note that operation of the trail use procedures could be delayed, or even foreclosed, by the OFA process under 49 U.S.C. 10905. As stated in *Rail Abandonments—Use of Rights-of-Way as Trails*, 2 I.C.C.2d 591 (1986) (*Trails*), OFAs to acquire rail lines for continued rail service or to subsidize rail operations take priority over interim trail use conditions.⁴ Accordingly, if a formal expression of intent to file an OFA is timely filed under 49 CFR 1152.27(c)(2), the effective date of this notice will be postponed 10 days beyond the effective date indicated here. In addition, the effective date may be further postponed at later stages in the OFA process. See 49 CFR 1152.27(e)(2) and (f). If the line is sold under the OFA procedures, the notice for abandonment exemption will be dismissed and trail use precluded. Alternatively, if a sale under the OFA procedures does not occur, trail use may proceed.

LTA also requested a 180-day public use condition for that portion of the right-of-way between Hatches Crossing and Dumas Road in Suttons Bay Township, MI, under 49 U.S.C. 10906 as an alternative to interim trail use. When the need for both conditions is established, it is Commission policy to impose them concurrently, subject to the execution of a trail use agreement. See *Trails, supra* at 609. LTA's submission meets the requirements for a public condition prescribed at 49 CFR 1152.28(a)(2) by specifying: (a) the condition sought; (b) the public importance of the condition; (c) the time period for which the condition would be effective; and (d) justification for imposition of the time period. Accordingly, the requested 180-day public use condition will also be imposed. If a trail use agreement is reached for a lesser portion of the right-of-way, RLTD must keep the remaining portion intact for the remainder of the 180-day period to permit public use negotiations. A public use condition is not imposed for the benefit of any one potential purchaser, but rather to provide an opportunity for any interested person to acquire either the whole or a portion of a right-of-way that has been found suitable for public purposes, including trail use.

RLTD filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will

¹ A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date of this exemption.

⁴ The statement in *Trails* that section 10905 does not apply to abandonment or discontinuance exemptions has since been superseded by the adoption of rules allowing OFAs in these exemption proceedings. See 49 CFR 1152.27.

issue an environmental assessment (EA) by October 24, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927-6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

It is ordered:

1. The abandonment of the above described line between Hatches Crossing and Dumas Road in Suttons Bay Township, MI, is subject to the conditions: (1) That RLTD is prohibited from disposing of the corridor, other than the tracks, ties and signal equipment, unless for public use on reasonable terms; and (2) that RLTD keep intact the right-of-way underlying the track, including all of the trail related structures including bridges, trestles, culverts, and tunnels, for a period of 180 days from the effective date of this exemption, to enable any State or local government agency or other interested persons to negotiate the acquisition of the line for public use.

2. Subject to the conditions set forth above, RLTD may discontinue service, cancel tariffs for the line on not less than 10 days' notice to the Commission, and salvage track and material consistent with interim trail use/rail banking after the effective date of this notice of exemption and NITU. Tariff cancellations must refer to this notice by date and docket number.

3. If an interim trail use/rail banking agreement is reached, it must require the trail user to assume, for the term of the agreement, full responsibility for management of, for any liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify RLTD from any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way.

4. Interim trail use/rail banking is subject to the future restoration of rail service and to the user's continuing to meet the financial obligations for the right-of-way.

5. If interim trail use is implemented and subsequently the user intends to terminate trail use, it must send the Commission a copy of this notice of exemption and NITU and request that it be vacated on a specified date.

6. If an agreement for interim trail use/rail banking is reached by the 180th

day after service of this notice of exemption and NITU, interim trail use may be implemented. If no agreement is reached by that time, RLTD may fully abandon the line.

Decided: October 10, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95-25940 Filed 10-18-95; 8:45 am]

BILLING CODE 7035-01-P

[Docket No. AB-452 (Sub-No. 1X)]

The Western Stock Show Association—Abandonment Exemption—in Denver, CO

[Docket No. AB-6 (Sub-No. 374)]

Burlington Northern Railroad Company—Adverse Discontinuance—in Denver, CO

[Docket No. AB-33 (Sub-No. 92)]

Union Pacific Railroad Company—Adverse Discontinuance—in Denver, CO

[Docket No. AB-446 (Sub-No. 2)]

Denver Terminal Railroad Company—Adverse Discontinuance—in Denver, CO

AGENCY: Interstate Commerce Commission.

ACTION: Exemption from statutory provisions concerning posting of notice of intent and filing of system diagram map.

SUMMARY: Under 49 U.S.C. 10505, the Commission is exempting The Western Stock Show Association from the requirements (1) that it post a notice of intent to discontinue service in terminals and stations on the subject line, and (2) that it file with the Commission a system diagram map (SDM) identifying and describing the subject line. The Commission is granting an exemption in light of the adverse nature of the involved applications for discontinuance of service.

DATES: The exemption will take effect on October 19, 1995. Petitions to reopen must be filed by November 8, 1995.

ADDRESSES: Send pleadings referring to Docket No. AB-452 (Sub-No. 1X), *et al.*, to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, N.W., Washington, DC 20423; and (2) petitioner's representative: John Broadley, Jenner & Block, 12th Floor, 601 13th Street, N.W., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927-5660. [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: The Western Stock Show Association (WSSA) has concurrently filed three adverse discontinuance applications and an abandonment exemption petition. WSSA owns land and rail facilities that the Denver Terminal Railroad Company (DTRC) is leasing to provide service in Denver, CO. In addition to DTRC, Burlington Northern, Inc., and the Union Pacific Railroad Company may have trackage rights over the subject line. WSSA does not have access to any of the three carriers' facilities and is unable to cause them to file SDM's. Accordingly, WSSA seeks exemption from the provisions of 49 U.S.C. 10904(a)(3)(B), which requires posting in terminals and stations of a notice of intent to discontinue service, and 49 U.S.C. 10904(e)(3), which allows the Commission to grant an opposed discontinuance application only if the subject line has been identified in an SDM filed with the Commission at least 4 months before the application was filed. The Commission is granting the exemption, finding that a denial is not required to carry out the rail transportation policy of 49 U.S.C. 10101a, the matter is of limited scope, and strict adherence to the statutory requirements is not needed to protect shippers from the abuse of market power. In its decision granting exemption, the Commission also is granting WSSA a waiver of certain regulatory requirements relating to the submission of service and financial information and to the notice and SDM matters discussed above.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., Interstate Commerce Commission Building, 1201 Constitution Avenue, N.W., Room 2229, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927-5721.]

Decided: October 11, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95-25941 Filed 10-18-95; 8:45 am]

BILLING CODE 7035-01-P